

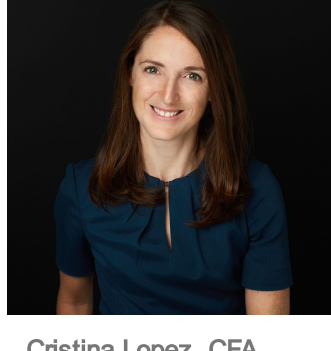
March 2022

Was this forwarded to you? [Subscribe here to get future updates.](#)

[Subscribe](#)

**Chair Summary**

**Canadian Advocacy Council**



**Cristina Lopez, CFA**  
Chair, Canadian  
Advocacy Council

The pace of requests for comment slowed during March, with the CAC submitting only one letter during the month. The members of the CAC responded to the CSA's notice on the proposed NI 93-101 and CP 93-101 relating to business conduct for OTC derivatives. This is the third consultation on NI 93-101 and CP 93-101, with the prior consultation having taken place in mid-2018. The changes from the prior iterations of the rule are intended to streamline the operationalization of the requirements (i.e. primarily to allow registered advisers to leverage their existing compliance infrastructure) and ensure that access to OTC products will not be unduly limited to customers in the Canadian OTC derivatives market. The CAC sees many of the provisions of the Proposed Instrument as improvements over the prior proposals and are responsive to comments and concerns raised by market participants, but is concerned with the time it's now taken to implement comprehensive OTC derivatives regulation in Canada, now being ~14 years since the GFC. The focus on maintaining liquidity for the Canadian marketplace is quite important given the structure of OTC derivatives markets and the limited number of dealers and active counterparties in certain instrument types.

Looking ahead, we are working on two comment letters = one on IIROC's proposed amendments to reporting, internal investigations and client complaints and on the other on the CSA's notice and request for comment relating to prospectus disclosures under NI 41-101 and NI 81-101.

**Published Comment Letters**

**Canadian Advocacy Council**

**CSA Notice and Third Request for Comment – Proposed National Instrument 93-101 Derivatives: Business Conduct and Proposed Companion Policy 93-101CP Derivatives: Business Conduct** (Filed March 17, 2022)

**About the notice**

The Proposed NI and CP set out a business conduct regime for OTC derivatives, and will apply to derivatives advisers and dealers regardless of registration status. This third publication addresses comments received on the rule, generally with respect to the potential negative impacts that would have resulted on derivatives market liquidity from the prior proposed requirements. The NI and CP are intended to, among other things, reduce systemic risk and improve transparency in the OTC derivatives markets while still meeting IOSCO's international standards. It includes provisions relating to conflicts, know-your-derivatives-party, senior management duties and suitability. It will apply to a person or company that meets the definition of "derivatives adviser" or "derivatives dealer", including federally regulated Canadian financial institutions, and a business trigger test (the same as for NI 31-103) will be used to determine which provisions of the NI will apply. Even if an entity is subject to the requirements (because they meet the business trigger and can not utilize one of the exemptions in the NI), certain eligible derivatives parties can waive certain of the requirements.

The changes from the prior iterations of the rule are intended to streamline the operationalization of the requirements (i.e. primarily to allow registered advisers to leverage their existing compliance infrastructure) and ensure that access to OTC products will not be unduly limited to customers in the Canadian OTC derivatives market. For example, a new foreign liquidity provider exemption will be available to foreign dealers when they transact with Canadian derivatives dealers (i.e. the inter-dealer market), and a new exemption will be available to foreign advisers, dealers and sub-advisers which are similar to the existing international exemptions in NI 31-103. In addition, IIROC dealer members will be exempted from certain requirements when they comply with IIROC requirements, and Canadian financial institutions will be exempt from certain provisions when they comply with the Bank Act or O/SI requirements. The proposed requirement to have a senior derivatives manager will now only apply to certain derivatives dealers with a specified notional amount of derivatives outstanding. The complaint handling provisions and tied selling provisions, on the other hand, have been extended to apply to all derivatives parties. A new transition period will allow certain derivatives firms to treat existing permitted clients, etc. as "eligible derivative parties" under the NI for up to five years, and there will be a delayed effective date of one year from the final publication of the NI. The CSA is seeking general comments, and responses to eight specific questions, including some related to the requirements to have a senior derivatives manager, the commercial hedger definition (as part of the eligible derivatives party definition), the treatment of registered securities advisers/commodity trading managers, and whether the new CFRs should be included in the NI.

**Overview of the Council's Comments**

The CAC supports many of the changes that have been made to the Proposed Instrument as we support the principles behind the business conduct proposals which include reducing systemic risk and meeting the International Organization of Securities Commissions' statement of related principles and objectives.

Many of the provisions of the Proposed Instrument are improvements over the prior proposals and are responsive to comments and concerns raised by market participants. The focus on maintaining liquidity for the Canadian marketplace is quite important given the structure of OTC derivatives markets and the limited number of dealers and active counterparties in certain instrument types.

While the CAC does not have a strong view as to whether the \$10 million financial threshold for qualifying as a commercial hedger is the appropriate quantum, the CAC is concerned that removing a financial threshold altogether may lead to potential negative externalities and incentivize problematic behaviour. Financial assets are not necessarily a proxy for financial sophistication, removing the financial threshold in the case of OTC derivatives may lead certain employees of dealers or intermediaries to erroneously help their clients conclude that they indeed have the requisite knowledge and experience to transact in OTC derivatives. Any derivative firm that has clients waiving their rights as commercial hedgers should be required to have rigorous supervision requirements with respect to those transactions and related client documentation, including evidence of client due diligence and any waivers.

Further, the CAC is not currently in support of the exemptions in section 3.1.1 from the senior derivatives manager requirements and we believe that presentation of additional information on the impetus for this change (including any cost-benefit analysis) and related research is required for the CAC to confirm that either of the proposed *de minimis* exemptions are appropriate in form and related quantum.

With respect to Registered advisers, they are already subject to a comprehensive registration and business conduct regime. The CAC is highly supportive of the ability for registered advisers to leverage their existing compliance infrastructure by complying with corresponding requirements in National Instrument 31-103 which allows for burden reduction. New requirements should only be imposed on registered advisers where a significant regulatory gap has been identified that is specific to derivatives, new conduct considerations, or new types of clients or counterparties.

**Response Drafting in Progress**

**Canadian Advocacy Council**

**IIROC Proposed Amendments - Reporting, Internal Investigation and Client Complaint Requirements** (Due April 14, 2022)

**About the notice**

IIROC has proposed changes to a variety of rules impacting their ComSet reporting requirements and some reporting requirements under the Universal Market Integrity Rules relating to client complaint handling processes and certain potential disciplinary matters, which are intended to clarify regulatory expectations and reduce duplicative reporting requirements. IIROC believes the amendments will address inconsistencies in how dealers interpret current requirements with respect to reporting, internal investigations and other client complaint matters and also help IIROC anticipate client complaints and better assess dealer risk. While the current ComSet reporting requirements are prescriptive, the amendments introduce a definition of "serious misconduct" that is more principles-based and that would require dealers to report on a specific list of activities (such as theft, material breaches of client personal information), but also other actions where there is either a reasonable risk of material harm to clients or the capital markets, or material non-compliance with IIROC requirements, securities laws or any other applicable laws. The amendments would focus the reporting on matters IIROC staff are most concerned about, and require all client-related misconduct to be reported through ComSet. Dealers would be required to conduct internal investigations and report to IIROC if they become aware that the dealer, an Approved Person or an employee may have engaged in serious misconduct, within the prescribed time frames. The amendments also codify some best practices with respect to client complaint handling procedures including removing the distinction between verbal and written complaints, setting time limits for internal dispute resolution, prohibiting the use of the term "ombudsman" for internal dispute resolution services, and requiring dealers to document and respond to each client complaint in a manner that a reasonable investor considers effective, fair and expeditious. In addition, IIROC is republishing amendments first published in 2019 to Rule 9500, which eliminates the restriction currently placed on OBSI from sharing information with IIROC staff.

**CSA Notice and Request for Comment – Proposed Amendments to NI 41-101 General Prospectus Requirements, NI 81-101 Mutual Funds Prospectus Disclosure, and Related Proposed Consequential Amendments and Changes and Consultation Paper on Base Shelf Prospectus** (Due April 27, 2022)

**About the notice**

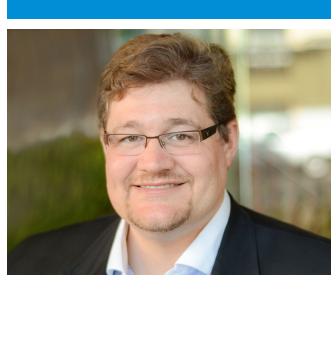
The first set of proposed amendments would reduce the frequency of prospectus filings for funds that are in continuous distribution from one year to two by extending the lapse date period for pro forma prospectuses. The purpose is to modernize the prospectus filing model without affecting the currency of the information available to investors. There would be no change to when the Fund Facts or ETF Facts would need to be filed (i.e., still annually), and those documents would continue to provide investors with the disclosure that changes yearly. Funds will still be subject to material change reporting rules. In addition, the CSA is proposing to repeal the requirement to file a final prospectus no more than 90 days after the issuance of a receipt for a preliminary prospectus. It is expected that each jurisdiction will change their filing fees such that the annual filing of the Fund Facts/ETF Facts will incur filing fees instead of the prospectus.

The notice included a consultation paper on whether to publish proposed amendments to permit a base shelf prospectus filing model for investment funds in continuous distribution, similar to corporate issuers in NI 44-102 Shelf Distributions. For investment funds, it is contemplated that the base shelf prospectus could have a lapse date beyond 25 months, and that certain disclosure documents such as the Fund Facts and ETF Facts would be incorporated by reference into the base shelf prospectus and be subject to primary market liability in the event of a misrepresentation. Specific questions are posed on the impact on investor decision making.

**\*\*If you would like to participate or provide comments to ongoing initiatives, please contact [cac@cfacanada.org](mailto:cac@cfacanada.org)\*\***

**Volunteer Spotlight**

**Canadian Advocacy Council**



**Georgie Hungerford, CFA**

Georgie has served on the CAC since July 2021.

Georgie is a Gwich'in (Northwest Territories and Yukon).

Georgie is CEO at First Nations Financial Management Board. He provides leadership on implementing the strategic direction of FMB set by the Board of Directors, while overseeing staff and their work.

He brings deep experience in finance and financial law, with experience as a securities regulatory lawyer, financial tribunal Chair and CEO, management consultant, and investment banker. He has also practiced Aboriginal and corporate law at a national law firm, driven economic development initiatives for the Gwich'in Nation, and represented the Gwich'in Nation in international Arctic economic development forums. He has initiated and led Indigenous networking and Reconciliation and UNDRIP policy development initiatives at the Canadian Bar Association (BC and National).

Georgie holds an MBA and an MA (East Asian Studies/Chinese) from Stanford University, an LLB from UBC, and an electrical and computer engineering degree from Queen's University. He is a CFA charterholder, CAIA Charterholder and an Action Canada Fellow. Georgie is a member of CFA Societies Canada's Canadian Advocacy Council for investment policy and a member of the Independent Review Committee on Standard Setting in Canada, which is reviewing audit and sustainable standards governance and oversight for Canada.

**1. Why does advocacy matter to you?**

Advocacy, speaking on the behalf of or in support of another person, place, or thing, is second nature to me. As a Gwich'in First Nation person (NWT and Yukon), and in my professional capacity as CEO at First Nations Financial Management Board, advocacy is essential to move forward in a better direction through Indigenous reconciliation.

As someone who has worked at one of the CSA institutions, I know that the comment letters we write are read and carefully considered, so there is a lot of value in bringing together very experienced CFA charterholders to be an impartial voice for what is in the best interest of investors.

**2. What would you tell another Canadian CFA charterholder about the CAC?**

They are a smart, dedicated group who are very thoughtful in their feedback and are focused on evidence-based decision making.

**News**



**CFA Institute Return Attribution Training Course Available**

Mastering performance attribution is critical to success in the financial industry. CFA Institute offers a new, short, self-paced online course to help you learn the tools and techniques of return attribution for both equity and fixed income portfolios.

[Register Here](#)

**CFA Institute Seeks Volunteers for Global Industry Standards (GIS) and Global Investment Performance Standards (GIPS®) Committees**

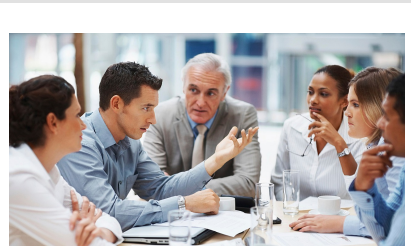
CFA Institute is actively recruiting volunteers to serve on the following committees, subcommittees, and working group:

- GIPS Standards Technical Committee
- GIPS Standards Asset Owner Subcommittee
- GIPS Standards Interpretations Subcommittee
- GIPS Standards Verification Subcommittee
- GIPS Standards Promotion Subcommittee
- GIPS Standards for Fiduciary Management Providers Technical Committee
- GIPS Standards United States Investment Performance Committee (USIPC)
- Environmental, Social, and Governance (ESG) Technical Committee
- ESG Examination Subcommittee
- GIPS Standards for Outsourced Chief Investment Officers (OCIOs) Working Group

In addition, CFA Institute is seeking to fill the Chair position on the GIPS Standards Promotion Subcommittee.

The deadline to apply for a volunteer position is **May 15, 2022 by 17:00 US ET**. If you have any questions, please email [volunteers@cfainstitute.org](mailto:volunteers@cfainstitute.org).

[Learn More](#)



**CFA Institute is looking for volunteers to join its pool of eligible CFA Exam graders**

Details about upcoming grading sessions are as follows:

1. Sessions will be held in June & September 2022 and March & September 2023.
2. Graders must be CFA charterholders, free of pending professional conduct investigations, and members in good standing with CFA Institute.
3. Graders are volunteers and are not paid for their service.
4. Graders must contribute seven hours each day of grading.
5. On the first one to two days, graders are trained and calibrated with their teams. After this, brief mandatory daily team meetings will be held at a specific time, but all other grading activities can take place at the grader's convenience at any time within each 24-hour period.

To be considered as a future grader, please contact [graders@cfainstitute.org](mailto:graders@cfainstitute.org)

[Learn More](#)

**CFA Institute Alpha Summit**



CFA Institute's Alpha Summit Global is back on May 17-19, 2022 with a hybrid conference experience. Each conference in the Alpha Summit event series from CFA Institute is designed to deliver knowledge, information, and professional connections to help you think beyond the horizon.

Alpha Summit 2022 will deliver a dynamic agenda of speakers sharing their valuable insights on impactful topics with five critical themes.

- Opportunities and Responsibilities with Sustainable Investing
- Excelling in a Post-Pandemic World
- Harnessing the Benefits of Innovation and Technology
- The Future of Capital Markets Today
- Advancements for the Investment Management Professional

Enjoy early registration discounts on the premium package by enrolling before **April 19, 2022**.

[Register Here](#)



**CFA Institute Launches Diversity, Equity, and Inclusion Code for the Investment Profession in US and Canada**

CFA Institute launched a comprehensive voluntary **Diversity, Equity, and Inclusion Code for the Investment Profession in the United States and Canada** ("DEI Code").

The DEI Code aims to foster commitment from institutions to DEI action that will lead to greater inclusion of wider viewpoints from the best talent, which will lead to better investment outcomes, help create better working environments, and generate a cycle of positive change for future generations.

[Read the Code](#)

**CFA Institute My Charter Story Podcast**

The CFA Institute My Charter Story podcast aims to uncover the inspirational stories that led people across the globe down the path to CFA charterholder.

The second episode is now available wherever you listen to podcasts.



[Listen Here](#)

*The Canadian Advocacy Council, on behalf of CFA Societies Canada, advances investor protection, industry professionalism, market integrity and transparency to the benefit of society.*



[Follow us on LinkedIn!](#)

Next Meeting Scheduled: Tuesday, April 12, 2022.

[Contact Us](#)

[Subscribe](#)

CFA Societies Canada Inc.  
120 Adelaide Street West, Suite 2205, Toronto, ON M5H 1T1  
T 416.366.3658

If you no longer wish to receive future communications from CFA Societies Canada, please reply to [info@cfacanada.org](mailto:info@cfacanada.org) with a subject UNSUBSCRIBE.